

**आयकर अपीलीय अधिकरण 'बी' न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'B' BENCH, CHENNAI**

**माननीय श्री महावीर सिंह, उपाध्यक्ष एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON'BLE SHRI MAHAVIR SINGH, VICE PRESIDENT AND**  
**HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**

1. आयकर अपील सं./ ITA No.547/Chny/2022  
(निर्धारण वर्ष / Assessment Year: 2009-10)
- &
2. आयकर अपील सं./ ITA No.548/Chny/2022  
(निर्धारण वर्ष / Assessment Year: 2010-11)
- &
3. आयकर अपील सं./ ITA No.549/Chny/2022  
(निर्धारण वर्ष / Assessment Year: 2011-12)

<b>M/s. Demeter Dealers Pvt. Ltd.</b> No.6/13, North Avenue, Kesavaperumalpuram, Chennai – 600 028.	<b>बनाम</b> / Vs.	<b>ACIT</b> Central Circle-2(3), Chennai.
स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. AACCD-2342-P		
(□ पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थी की ओरसे/ <b>Appellant by</b>	:	Shri B. Ramakrishnan (FCA) & Shri Shrenik Chordia (C.A) -Ld. ARs
प्रत्यर्थी की ओरसे/ <b>Respondent by</b>	:	Shri Guru Bashyam (CIT) –Ld. DR
सुनवाई की तारीख/ <b>Date of Hearing</b>	:	11-10-2022
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	25-11-2022

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeals by assessee for Assessment Years (AYs) 2009-10, 2010-11 & 2011-12 arises out of common order of learned Commissioner of Income Tax (Appeals)-18, Chennai [CIT(A)] dated 30-

05-2022 in the matter of separate assessments framed by Ld. Assessing Officer [AO] u/s.143 r/w s. 153C of the Act on 30-03-2015.

The facts as well as issues are stated to be the same in all the years.

The grounds raised by the assessee for AY 2009-10 are as under:

1. The order of the Learned Commissioner of Income Tax (Appeals) is contrary to the law, facts and circumstances of the case.
2. For that the Learned Commissioner of Income Tax (Appeals) erred in confirming the assessment order passed u/s 143(3) rws153C of the Income Tax Act which is bad in law.
3. For that the Learned Commissioner of Income Tax (Appeals) erred in confirming the addition made by the AO in a case where no incriminating material relating to the appellant was found during the course of search.
4. For that the Learned Commissioner of Income Tax (Appeals) erred in confirming the addition of Rs.2,75,00,000/- as being income from undisclosed sources and failing to appreciate the fact that the transactions were through banking channels.
5. For that the Learned Commissioner of Income Tax (Appeals) erred in upholding the addition made by the AO without giving the appellant a sufficient opportunity to cross-examine the persons whose version had been relied upon to make such addition.

For these grounds and such other grounds that may be adduced before or during the hearing of the appeal, it is prayed that the Hon'ble Tribunal may be pleased to delete the additions made and/or grant such other relief as this Hon'ble Tribunal may, deem fit.

As is evident, the assessee is aggrieved by confirmation of certain additions.

2. The Ld. AR advanced arguments supporting the case of the assessee. The Ld. AR submitted that in the absence of any incriminating material, no such additions could have been made. The Ld. AR also filed petition under Rule 29 of Income Tax (Appellate Tribunal) Rules, 1963 for admission of additional evidences. These evidences are in the nature of copies of annual return of companies, on sample basis, whose shares were sold by the assessee and the sale proceeds arising there-from was utilized to make the impugned investments. The Ld. AR, while pleading for admission of the same,

submitted that these documents would have material bearing on the adjudication of the appeals.

The Ld. CIT-DR controverted the arguments of Ld. AR and submitted that the additions are based on investigation findings. Having heard rival submissions, the appeals are disposed-off as under.

### **Assessment Proceedings**

3.1 From the perusal of record, it transpires that the assessee-company is part of M/s. SBQ Steels Ltd. & M/s. RKKR Steels Ltd. group of companies (Ram Krishan Kulwant Rai group). The group is stated to be engaged in production and sale of TMT steel bars for the past five decades. The assessee is stated to be engaged in making investments.

3.2 The group was subjected to search action u/s.132 on 26-09-2012. During the course of search, certain material connected with the assessee company was found regarding investment in the share capital of M/s. SBQ Steels Ltd. and its group of companies. The seized record contained the material to enable the department to examine the correctness of sources of money routed through these companies. The details of seized material have been elaborated by Ld. AO in para-2 of the assessment order.

3.3 Accordingly, notice u/s. 153C r.w.s. 153A of the Act was issued on 26-09-2014 against which the assessee filed its return of income on 12-12-2014. However, the details called for by Ld. AO were not furnished by the assessee.

3.4 It transpired that the assessee made investment of Rs.275 Lacs in the share capital of group entities out of sale proceeds of share investments. However, the assessee could not furnish sufficient

documents to explain all these transactions. Accordingly, taking an adverse view, Ld. AO held that the assessee was only a shell / paper-company and the investment made by the assessee was not explained satisfactorily. Accordingly, the amount of Rs.275 Lacs was treated as undisclosed income of the assessee. The investments made in M/s SBQ Steels Ltd. and M/s RKKR Steels Ltd. was added in their respective hands and the same was also added in the hands of the assessee on protective basis. The assessment of other two years was also framed on similar lines.

### **Appellate Proceedings**

4.1 The assessee, inter-alia, pleaded that the requirement of assessment was not fulfilled since no incriminating material pertaining to assessee company was found during the course of search action. Further the investments were sourced out of sale proceeds of investments as evidenced by bank statements etc. Further, addition made on the basis of mere third-party statements were in violation of principle of natural justice.

4.2 However, Ld. CIT(A) held that the findings were based on investigation wing that the assessee group had taken accommodation entries from entry operators of Kolkata. The transactions were not genuine and the assessee did not discharge the onus of establishing the impugned transactions. After referring to various judicial pronouncements, the additions were confirmed for all the years against which the assessee is in further appeal before us.

### **Our findings and Adjudication**

5. The material facts that emerge are that the assessee group was subjected to search action on 26-09-2012. Since certain documents

were found during the search, the assessee's case was covered u/s 153C. During the course of search, certain documents were found which include copies of bank statements, share certificates, work orders, copies of invoices, copies of computation of total income of assessee's directors and their trial balances, correspondences with Income tax Departments and statutory documents / financial statements etc. It could also be gathered that the Ld. AO has not referred to any seized document while making the additions in the hands of the assessee. Rather the impugned additions are primarily based on the basis of third-party statements and the view taken in the case of group entities. On the bases of these assessments, it has been alleged by Ld. AO that the assessee failed to explain the source of investment made by it. Accordingly, the impugned additions have been made. At the same time, the assessee also could not establish the genuineness of the transactions and failed to file the requisite documents to the satisfaction of lower authorities. The details for sale of investments were not produced. It could also be seen that the assessee group was subjected to search action on 26-09-2012 and the time limit to issue notice u/s 143(2) for AY 2011-12 had not expired at that time and this year could not be considered as the case of unabated assessment and therefore, Ld. AO was at liberty to assess as well as reassess the income of the assessee for this year based on all evidences, material on record including seized documents.

6. Considering the entirety of facts and circumstances of the case, we deem it fit to admit the additional evidences filed by the assessee since these may have material bearing to the case of the assessee. Accordingly, the impugned order is set-aside and the matter of

assessment, for all the years, stand restored back to the file of Ld. AO for denovo adjudication after granting reasonable opportunity of hearing to the assessee. The Ld. AO may go through seized document as well as additional evidences and confront adverse material / information to the assessee, who, in turn, is directed to substantiate its stand. All the issues are kept open.

7. All the appeals of the assessee stand allowed for statistical purposes.

Order pronounced on 25<sup>th</sup> November, 2022.

Sd/-  
(MAHAVIR SINGH)  
उपअध्यक्ष / VICE PRESIDENT

Sd/-  
(MANOJ KUMAR AGGARWAL)  
लेखक सदस्य / ACCOUNTANT MEMBER

चेन्नई / Chennai; दिनांक / Dated : 25-11-2022  
EDN/-

**आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF